

107TH CONGRESS  
2D SESSION

# S. 2739

To provide for post-conviction DNA testing, to improve competence and performance of prosecutors, defense counsel, and trial judges handling State capital criminal cases, to ensure the quality of defense counsel in Federal capital cases, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 17, 2002

Mr. HATCH (for himself, Mr. DEWINE, Mr. LOTT, Mr. DOMENICI, Mr. BUNNING, Mr. GRASSLEY, Mr. KYL, Mr. McCONNELL, Mr. SESSIONS, Mr. SANTORUM, Mr. HUTCHINSON, Mr. THURMOND, and Mr. HELMS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for post-conviction DNA testing, to improve competence and performance of prosecutors, defense counsel, and trial judges handling State capital criminal cases, to ensure the quality of defense counsel in Federal capital cases, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Death Penalty Integrity Act of 2002”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.  
 Sec. 2. Findings.

#### TITLE I—POST-CONVICTION DNA TESTING IN FEDERAL COURT

Sec. 101. Federal post-conviction DNA testing.  
 Sec. 102. State post-conviction DNA testing.  
 Sec. 103. Repeal.

#### TITLE II—ENSURING FAIR CAPITAL TRIALS IN STATE AND LOCAL COURTS

Sec. 201. Grants to train prosecutors, defense counsel, and State and local  
 judges handling State capital cases.  
 Sec. 202. Ensuring competent counsel in Federal death penalty cases.  
 Sec. 203. Ensuring competent counsel in noncapital cases.

### 3 **SEC. 2. FINDINGS.**

4 Congress makes the following findings:

5 (1) In the last decade, deoxyribonucleic acid  
 6 testing (referred to in this Act as “DNA testing”)  
 7 has emerged as the most reliable forensic technique  
 8 for identifying criminals when biological evidence of  
 9 the crime is obtained. DNA testing “has been ac-  
 10 knowledged by the courts as well as the national sci-  
 11 entific community for its extraordinary degree of ac-  
 12 curacy in matching cellular material to individuals”.  
 13 Commonwealth v. Brison, 618 A.2d 420 (S. Ct. Pa.  
 14 1992).

15 (2) In many cases, DNA testing of biological  
 16 evidence can reveal relevant evidence of a crime, and  
 17 in a narrow class of cases, it can conclusively prove  
 18 the guilt or innocence of a criminal defendant. In

1 many other cases, however, DNA testing can provide  
2 only inconclusive or irrelevant evidence.

3 (3) While DNA testing is standard in pretrial  
4 investigations in every State today, it was not widely  
5 available prior to the early 1990's. In addition, new  
6 DNA testing technologies have been developed that  
7 can accurately examine minute samples and obtain  
8 more discriminating results than earlier forms of  
9 DNA testing.

10 (4) DNA testing may be possible on biological  
11 evidence that is more than a decade old. Because bi-  
12 ological evidence, such as semen or hair from a rape,  
13 is often preserved by authorities years after trial, it  
14 has become possible to submit preserved biological  
15 evidence to DNA testing. In cases that were tried  
16 before DNA technology existed, and in which biologi-  
17 cal evidence was preserved after conviction, post-con-  
18 viction testing may be feasible.

19 (5) Even within this narrow class of cases that  
20 occurred before DNA technology existed, and in  
21 which biological evidence was preserved, post-convic-  
22 tion testing is appropriate only if the identity of the  
23 perpetrator was an issue at trial, and DNA testing  
24 has the potential to exonerate the defendant of the  
25 crime for which he was convicted of beyond a rea-

1       sonable doubt. To authorize post-conviction testing  
2       in a broader category of cases would lead to a waste  
3       of scarce prosecutorial and judicial resources without  
4       increasing the likelihood of determining whether an  
5       innocent person was wrongfully convicted.

6           (6) Twenty-five of 38 States which have capital  
7       punishment have enacted post-conviction DNA test-  
8       ing programs, and 6 States have pending legislation  
9       to implement DNA programs. Several States, includ-  
10      ing Illinois, New York, and Arizona, have enacted  
11      statutes that authorize post-conviction DNA testing  
12      where such testing has the potential to exonerate a  
13      defendant. For example, in *People v. Savory*, 722,  
14      N.E.2d 220, 224 (Ill. 1999), the court, after an ex-  
15      haustive examination of the Illinois post-conviction  
16      DNA testing statute, concluded that “the legislature  
17      intended to provide a process of total vindica-  
18      tion...[I]n using the term ‘actual innocence’, the  
19      legislature intended to limit the scope of the [Illinois  
20      statute], allowing for scientific testing only where it  
21      has the potential to exonerate a defendant.”. In Sa-  
22      vory, the court denied post-conviction testing be-  
23      cause “although DNA testing carries the possibility  
24      of weakening the State’s original case against de-

1       fendant, it does not have the potential to prove him  
2       innocent”.

3           (7) Because DNA testing is standard in pretrial  
4       investigations in every State today, the issue of post-  
5       conviction DNA testing involves only a narrow class  
6       of cases prosecuted before DNA technology existed.  
7       In the near future, the need for post-conviction  
8       DNA testing will cease because of the availability of  
9       pretrial testing with advanced technologies.

10          (8) In the last decade, post-conviction DNA  
11       testing has exonerated innocent persons who were  
12       wrongly convicted in trials that occurred before  
13       DNA testing existed. In some of these cases, the  
14       post-conviction DNA testing that exonerated a  
15       wrongly convicted person also provided evidence that  
16       led to the apprehension of the actual perpetrator.

17          (9) Under Federal law, it is difficult to obtain  
18       post-conviction DNA testing because of time limits  
19       on introducing newly discovered evidence. Under  
20       Federal law, such a motion must be made not later  
21       than 3 years after the date of conviction. These time  
22       limits are based on the fact that evidence becomes  
23       less reliable after the passage of time and, as a re-  
24       sult, it is difficult to prosecute criminal cases years  
25       after the crime occurred.

1           (10) The time limits on introducing newly dis-  
 2 covered evidence should not bar post-conviction  
 3 DNA testing in appropriate cases because DNA test-  
 4 ing can produce accurate results on biological evi-  
 5 dence that is more than a decade old. Unlike other  
 6 evidence, the results of DNA testing are not nec-  
 7 essarily less reliable after the passage of time.

8           (11) Once post-conviction DNA testing is per-  
 9 formed, the results of such testing should be consid-  
 10 ered as newly discovered evidence by the courts. If  
 11 post-conviction testing produces exculpatory evi-  
 12 dence, the defendant should be allowed to move for  
 13 a new trial based on newly discovered evidence, not-  
 14 withstanding the time limits on such motions appli-  
 15 cable to other forms of newly discovered evidence.

## 16 **TITLE I—POST-CONVICTION DNA** 17 **TESTING IN FEDERAL COURT**

### 18 **SEC. 101. FEDERAL POST-CONVICTION DNA TESTING.**

19           (a) FEDERAL CRIMINAL PROCEDURE.—

20           (1) IN GENERAL.—Part II of title 18, United  
 21 States Code, is amended by inserting after chapter  
 22 228 the following:

### 23 **“CHAPTER 228A—POST-CONVICTION DNA** 24 **TESTING**

“Sec.

“3600. DNA testing.

“3600A. Prohibition on destruction of biological evidence.

1 **“§ 3600. DNA testing**

2 “(a) MOTION.—

3 “(1) IN GENERAL.—An individual who, after a  
4 trial, was convicted of a Federal crime and is serving  
5 a term of imprisonment as a result of that conviction  
6 (referred to in this section as the ‘applicant’)  
7 may file a written motion to the court that entered  
8 the judgment of conviction for the performance of  
9 forensic DNA testing on specified evidence that—

10 “(A) was secured in relation to the investigation  
11 or prosecution that resulted in the conviction  
12 of the applicant; and

13 “(B) was not subject to DNA testing because  
14 the technology for such testing was not  
15 available to the applicant at the time of the  
16 trial.

17 “(2) CONTENTS.—A motion filed under paragraph  
18 (1) shall—

19 “(A) include an assertion by the applicant,  
20 under penalty of perjury, that the applicant was  
21 actually innocent of—

22 “(i) the offense for which the applicant  
23 was convicted; or

24 “(ii) evidence introduced at the trial  
25 of the offense of conviction or relied upon  
26 by the court at sentencing, the exoneration

1 of which would result in a mandatory re-  
2 duction of the applicant's sentence;

3 "(B) identify the specific evidence secured  
4 in relation to the investigation or prosecution  
5 that resulted in the conviction of the applicant  
6 for which DNA testing is requested;

7 "(C) identify a theory of defense, not in-  
8 consistent with previously asserted theories,  
9 which would establish the actual innocence of  
10 the applicant, and explain how the requested  
11 DNA testing would substantiate that theory of  
12 defense;

13 "(D) make a prima facie showing that the  
14 conditions set forth in this section for issuance  
15 of a testing order are satisfied; and

16 "(E) certify that the applicant—

17 "(i) will provide a DNA sample from  
18 the applicant for purposes of comparison;  
19 and

20 "(ii) waives, in all Federal and State  
21 jurisdictions, the right to raise as a de-  
22 fense any limitation period for prosecution  
23 for any other offense in any subsequent  
24 criminal prosecution which is discovered as  
25 a result of a comparison of the applicant's



1                   DNA to any Federal or State DNA data-  
2                   base.

3                   “(3) PURPOSE.—A motion filed under para-  
4                   graph (1) must be filed for the purpose of dem-  
5                   onstrating the actual innocence of the applicant, not  
6                   to delay the execution of sentence or administration  
7                   of justice.

8                   “(b) TIME PERIOD FOR FILING MOTION.—A motion  
9                   filed under subsection (a) shall be considered timely if it  
10                  is filed within 60 months after the date of enactment of  
11                  this section.

12                  “(c) NOTICE TO THE GOVERNMENT; PRESERVATION  
13                  ORDER; APPOINTMENT OF COUNSEL.—

14                  “(1) NOTICE.—Upon receipt of a motion filed  
15                  under subsection (a), the court shall notify the Gov-  
16                  ernment and shall afford the Government a reason-  
17                  able time period to respond to the motion.

18                  “(2) PRESERVATION ORDER.—To the extent  
19                  necessary to carry out proceedings under this sec-  
20                  tion, the court may direct the Government to pre-  
21                  serve evidence to which a motion under subsection  
22                  (a) relates.

23                  “(3) APPOINTMENT OF COUNSEL.—The court  
24                  may appoint counsel for an indigent applicant under

1       this section in the same manner as in a proceeding  
2       under section 3006A(a)(2)(B).

3       “(d) ORDER FOR DNA TESTING.—The court shall  
4       order the DNA testing requested in a motion filed under  
5       subsection (a) if, after a review of the trial record, the  
6       court finds that—

7               “(1) the applicant’s motion satisfies the re-  
8       quirements of subsection (a);

9               “(2) the identity of the perpetrator was at issue  
10       in the trial that resulted in the conviction of the ap-  
11       plicant;

12               “(3) the evidence to be tested is in the posses-  
13       sion of the Government and has been subject to a  
14       chain of custody and retained under conditions suffi-  
15       cient to ensure that the evidence has not been sub-  
16       stituted, contaminated, tampered with, replaced, or  
17       altered in any respect material to the requested  
18       DNA testing;

19               “(4)(A) the technology for the requested DNA  
20       testing was not available at the time of trial; or

21               “(B) if any of the evidence was previously sub-  
22       jected to DNA testing, the testing now requested  
23       uses a newer DNA testing technique that is reason-  
24       ably certain to provide results that are substantially

1 more accurate and probative than any previous DNA  
2 testing of the evidence;

3 “(5) the proposed DNA testing is reasonable in  
4 scope, uses scientifically sound methods, and is con-  
5 sistent with accepted forensic practice;

6 “(6) the applicant would be entitled to either a  
7 new trial under subsection (h)(5) or a reduction of  
8 sentence under subsection (h)(6) where the results  
9 of the requested DNA testing exclude the defendant  
10 as the source of the DNA in the evidence; and

11 “(7) the applicant’s motion is—

12 “(A) filed in a timely manner; and

13 “(B) filed for the purpose of dem-  
14 onstrating the actual innocence of the applicant  
15 and not to delay the execution of sentence or  
16 administration of justice.

17 “(e) TESTING PROCEDURES.—

18 “(1) IN GENERAL.—The court shall direct that  
19 any DNA testing ordered under this section be car-  
20 ried out by the Federal Bureau of Investigation  
21 (FBI).

22 “(2) INABILITY TO TEST DNA.—If the FBI is  
23 unable to conduct such DNA testing, the court—

1           “(A) on motion of the applicant for good  
2           cause shown, may direct that such DNA testing  
3           be conducted by another laboratory; and

4           “(B) shall make all necessary orders to en-  
5           sure the integrity of the evidence and the reli-  
6           ability of the testing process and test results.

7           “(3) COSTS.—The costs of any DNA testing or-  
8           dered under this section shall be paid—

9           “(A) by the applicant; or

10          “(B) in the case of an applicant who is in-  
11          digent, by the court.

12          “(f) TIME LIMITATION IN CAPITAL CASES.—In any  
13          case in which the applicant is sentenced to death—

14          “(1) any DNA testing ordered under this sec-  
15          tion shall be completed not later than 120 days after  
16          the date on which the Government responds to the  
17          motion filed under subsection (a); and

18          “(2) not later than 30 days after the date on  
19          which the DNA testing ordered under this section is  
20          completed, the court shall order any post-testing  
21          procedures under subsection (h).

22          “(g) REPORTING OF TEST RESULTS.—

23          “(1) IN GENERAL.—The results of any DNA  
24          testing ordered under this section shall be simulta-

1 neously disclosed to the court, the applicant, and the  
2 Government.

3 “(2) CODIS.—The Government shall include  
4 any test results relating to the DNA of the applicant  
5 in the Combined DNA Index System (CODIS).

6 “(h) POST-TESTING PROCEDURES; FILING OF MO-  
7 TIONS FOR NEW TRIAL OR REDUCTION OF SENTENCE  
8 AND COURT ORDERS.—

9 “(1) IN GENERAL.—If DNA testing results ob-  
10 tained under this section are inconclusive or show  
11 that the applicant was the source of DNA in the evi-  
12 dence, the court shall deny the applicant relief.

13 “(2) PROCEDURES.—Where the testing results  
14 show that the applicant was the source of DNA in  
15 the evidence, the court shall, on motion of the  
16 Government—

17 “(A) make a determination whether the  
18 applicant’s assertion of actual innocence was  
19 false, and, if the court makes such a finding,  
20 the court may hold the applicant in contempt;

21 “(B) assess against the applicant the cost  
22 of any DNA testing carried out under this sec-  
23 tion;

24 “(C) forward the finding to the Director of  
25 the Bureau of Prisons, who, upon receipt of

1           such a finding, may deny, wholly or in part, the  
2           good conduct credit authorized under section  
3           3624 on the basis of that finding; and

4           “(D) if the applicant is subject to the ju-  
5           risdiction of the United States Parole Commis-  
6           sion, forward the finding to the Commission so  
7           that the Commission may deny parole on the  
8           basis of that finding.

9           “(3) SENTENCE.—In any prosecution of an ap-  
10          plicant under chapter 79 for false assertions or other  
11          conduct in proceedings under this section, the court,  
12          upon conviction of the applicant, shall sentence the  
13          applicant to a term of imprisonment of not less than  
14          3 years, which shall run consecutively with any other  
15          term of imprisonment the applicant is serving.

16          “(4) MOTION FOR NEW TRIAL OR REDUCTION  
17          OF SENTENCE.—If the DNA test results obtained  
18          under this section exclude the applicant as the  
19          source of the DNA in the evidence, the applicant  
20          may, within 60 days of notification of the DNA tests  
21          results—

22                 “(A) file a motion for a new trial pursuant  
23                 to rule 33 of the Federal Rules of Criminal  
24                 Procedure, notwithstanding any provision of law  
25                 that would bar such a motion as untimely; or

1           “(B) file a motion to reduce sentence, if  
2           applicable, pursuant to rule 35 of the Federal  
3           Rules of Criminal Procedure, notwithstanding  
4           any provision of law that would bar such a mo-  
5           tion as untimely.

6           “(5) PROCEDURE FOR GRANTING OF NEW  
7           TRIAL MOTION.—The court shall grant the appli-  
8           cant’s motion for a new trial, pursuant to rule 33  
9           of the Federal Rules of Criminal Procedure, if the  
10          DNA testing results, when considered with all other  
11          evidence in the case (whether or not such evidence  
12          was introduced at trial), establish by clear and con-  
13          vincing evidence that no reasonable factfinder would  
14          have found the applicant guilty of the offense for  
15          which the applicant was convicted.

16          “(6) PROCEDURE FOR GRANTING OF MOTION  
17          TO REDUCE SENTENCE.—The court shall grant the  
18          applicant’s motion for reduction of sentence, pursu-  
19          ant to rule 35 of the Federal Rules of Criminal Pro-  
20          cedure, if the DNA testing results, when considered  
21          with all other evidence in the case (whether or not  
22          such evidence was introduced at trial), establish that  
23          the applicant is entitled to a mandatory reduction of  
24          sentence.

1       “(i) FINAL ORDER.—An order granting or denying  
 2 DNA testing requested under subsection (a) or an order  
 3 granting or denying a motion for a new trial or motion  
 4 to reduce sentence under subsection (h) is a final order  
 5 for purposes of section 1291 of title 28.

6       “(j) TIME LIMITS INAPPLICABLE; OTHER REMEDIES  
 7 UNAFFECTED.—

8               “(1) TIME LIMIT FOR RELIEF.—Notwith-  
 9 standing any time limit otherwise applicable to mo-  
 10 tions for new trials or a reduction of sentence based  
 11 on newly discovered evidence, a court may grant re-  
 12 lief to an applicant at any time under subsection (h).

13               “(2) TIME LIMIT FOR PROSECUTION.—Notwith-  
 14 standing any time limit otherwise applicable to the  
 15 commencement of prosecution of a defendant, the  
 16 Government may commence at any time the prosecu-  
 17 tion of an applicant for any offense discovered  
 18 through comparison of the DNA of the applicant to  
 19 a DNA database.

20               “(3) OTHER REMEDIES UNAFFECTED.—This  
 21 subsection does not affect the circumstances under  
 22 which a person may obtain DNA testing or post-con-  
 23 viction relief under any other law or rule.

24       “(k) APPLICABILITY TO FEDERAL HABEAS COR-  
 25 PUS.—The denial of post-conviction DNA testing by a



1 Federal or State court shall not be a ground for relief in  
2 any proceeding under Federal habeas corpus.

3 **“§ 3600A. Prohibition on destruction of biological evi-**  
4 **dence**

5 “(a) IN GENERAL.—During the 60-month period  
6 commencing on the date of enactment of this section and  
7 following the conviction of a defendant in a criminal case  
8 in which the identity of the perpetrator was at issue in  
9 the trial, the Government shall not destroy any biological  
10 evidence that was secured in the investigation or prosecu-  
11 tion of the case and preserved until the time of conviction,  
12 if the defendant is imprisoned for the crime.

13 “(b) BIOLOGICAL EVIDENCE.—For purposes of this  
14 section, the term ‘biological evidence’ means evidence that  
15 the Government knows is—

16 “(1) a sexual assault forensic examination kit;  
17 or

18 “(2) semen, blood, saliva, hair, skin tissue, or  
19 other identified biological material that derives from  
20 the perpetrator of the crime.

21 “(c) APPLICABILITY.—The prohibition of the de-  
22 struction of biological evidence under subsection (a) shall  
23 not apply if—

24 “(1) the biological evidence has been subjected  
25 to DNA testing;

1           “(2) a court has denied a request or motion for  
2       DNA testing of the biological evidence;

3           “(3) the biological evidence was disclosed to the  
4       defendant before conviction and the defendant did  
5       not seek available DNA testing; or

6           “(4) the biological evidence is disclosed to the  
7       defendant after conviction and the defendant does  
8       not file a motion under section 3600 within 180  
9       days of the disclosure.”.

10           (2) TECHNICAL AND CONFORMING AMEND-  
11       MENTS; AMENDMENTS TO LIMITATION PROVI-  
12       SIONS.—

13           (A) CHAPTER ANALYSIS.—The chapter  
14       analysis for part II of title 18, United States  
15       Code, is amended by inserting after the item re-  
16       lating to chapter 228 the following:

**“228A. Post-conviction DNA testing ..... 3600”.**

17           (B) FUGITIVES FROM JUSTICE.—Section  
18       3290 of title 18, United States Code, is amend-  
19       ed to read as follows:

20       **“§ 3290. Fugitives from justice; persons identified**  
21           **through DNA matching**

22       “No statute of limitations shall extend to any person  
23       fleeing from justice, or to any person identified by means  
24       of a DNA database prior to such identification.”.

1 (C) TECHNICAL AND CONFORMING AMEND-  
2 MENT.—The analysis for chapter 213 of title  
3 18, United States Code, is amended by striking  
4 the item relating to section 3290 and inserting  
5 the following:

“3290. Fugitives from justice; persons identified through DNA matching.”.

6 (b) SYSTEM FOR REPORTING MOTIONS.—

7 (1) ESTABLISHMENT.—The Attorney General  
8 shall establish a system for reporting and tracking  
9 motions filed in accordance with section 3600 of title  
10 18, United States Code.

11 (2) OPERATION.—In operating the system es-  
12 tablished under paragraph (1), the courts shall pro-  
13 vide to the Attorney General any requested assist-  
14 ance in operating such a system and in ensuring the  
15 accuracy and completeness of information included  
16 in that system.

17 (3) REPORT.—Not later than 180 days before  
18 the expiration of the time period referenced in sec-  
19 tion 3600(b) of title 18, United States Code, as  
20 added by this Act, the Attorney General shall submit  
21 a report to Congress that contains—

22 (A) a list of motions filed under section  
23 3600 of title 18, United States Code, as added  
24 by this Act;

1 (B) whether DNA testing was ordered pur-  
2 suant to such a motion;

3 (C) whether the applicant obtained relief  
4 on the basis of DNA test results; and

5 (D) whether further proceedings occurred  
6 following a granting of relief and the outcome  
7 of such proceedings.

8 (4) ADDITIONAL INFORMATION.—The report re-  
9 quired to be submitted under paragraph (3) may in-  
10 clude any other information the Attorney General  
11 believes will be useful in assessing the operation,  
12 utility, or costs of section 3600 of title 18, United  
13 States Code, as added by this Act, and any rec-  
14 ommendations the Attorney General may have relat-  
15 ing to future legislative action concerning that sec-  
16 tion.

17 (c) EFFECTIVE DATE; APPLICABILITY.—This section  
18 and the amendments made by this section shall take effect  
19 on the date of enactment of this Act and shall apply with  
20 respect to any offense committed, and to any judgment  
21 of conviction entered, before, on, or after that date of en-  
22 actment.

23 **SEC. 102. STATE POST-CONVICTION DNA TESTING.**

24 (a) COVERDELL ACT INCENTIVE FOR STATE POST-  
25 CONVICTION DNA TESTING.—

1           (1) AUTHORIZATION OF APPROPRIATIONS.—In  
2           addition to the amounts authorized to be appro-  
3           priated by section 1001(a)(24) of title I of the Om-  
4           nibus Crime Control and Safe Streets Act of 1968  
5           (42 U.S.C. 3793(a)(24)), there are authorized to be  
6           appropriated in each of fiscal years 2003 through  
7           2007, \$10,000,000 for grants to States to be used—

8                   (A) for the purposes set forth in section  
9                   2804 of title I of such Act (42 U.S.C. 3797m);  
10                  and

11                  (B) to defray the State costs associated  
12                  with post-conviction DNA testing.

13           (2) GRANTS.—

14                   (A) APPLICATION.—To be eligible to re-  
15                   ceive a grant under this subsection, a State  
16                   must submit an application to the Attorney  
17                   General at such time, in such manner, and ac-  
18                   companied by such information as the Attorney  
19                   General may reasonably require.

20                   (B) CERTIFICATION.—An application sub-  
21                   mitted under subparagraph (A) shall include a  
22                   certification that the State has adopted or will  
23                   adopt a procedure for post-conviction DNA  
24                   testing.

1 (C) SUPPLEMENTARY FUNDS.—The Attor-  
2 ney General shall allocate the supplementary  
3 funds authorized to be appropriated under this  
4 subsection, for grants under this paragraph,  
5 among qualifying States as nearly as prac-  
6 ticable to the manner provided by section 2803  
7 of title I of the Omnibus Crime Control and  
8 Safe Streets Act (42 U.S.C. 3797l) for the allo-  
9 cation of funds appropriated pursuant to sec-  
10 tion 1001(a)(24) of title I of such Act (42  
11 U.S.C. 3753(a)(24)).

12 (D) STATE.—For purposes of this sub-  
13 section, the term “State” means a State of the  
14 United States, the District of Columbia, the  
15 Commonwealth of Puerto Rico, the Virgin Is-  
16 lands, American Samoa, Guam, and the Com-  
17 monwealth of the Northern Mariana Islands.

18 (b) QUALIFYING FEDERAL OFFENSES.—Section 3(d)  
19 of the DNA Analysis Backlog Elimination Act of 2000 (42  
20 U.S.C. 14135a(d)) is amended to read as follows:

21 “(d) QUALIFYING FEDERAL OFFENSE.—For pur-  
22 poses of this section, the term ‘qualifying Federal offense’  
23 means—

24 “(1) offenses classified as felonies under Fed-  
25 eral or any State law;

1 “(2) all offenses under chapter 109A of title 18;  
2 and

3 “(3) any crime of violence as defined in section  
4 16 of title 18.”.

5 (c) INCLUSION OF JUVENILES IN CODIS.—Section  
6 210304(a)(1) of the Violent Crime Control and Law En-  
7 forcement Act of 1994 (42 U.S.C. 14132(a)(1)) is amend-  
8 ed to read as follows:

9 “(1) DNA identification records of persons con-  
10 victed of or adjudicated delinquent for crimes;”.

11 **SEC. 103. REPEAL.**

12 Effective 60 months after the date of enactment of  
13 this Act, sections 101 and 102(a) are repealed.

14 **TITLE II—ENSURING FAIR CAP-**  
15 **ITAL TRIALS IN STATE AND**  
16 **LOCAL COURTS**

17 **SEC. 201. GRANTS TO TRAIN PROSECUTORS, DEFENSE**  
18 **COUNSEL, AND STATE AND LOCAL JUDGES**  
19 **HANDLING STATE CAPITAL CASES.**

20 (a) COMPETENT COUNSEL GRANT PROGRAM.—The  
21 State Justice Institute Act of 1984 (42 U.S.C. 10701 et  
22 seq.) is amended by inserting after section 207 the fol-  
23 lowing:

1   **“SEC. 207A. GRANT PROGRAM FOR TRAINING DEFENSE**  
2                   **COUNSEL.**

3           “(a) GRANTS AUTHORIZED.—The Institute is au-  
4   thorized to award grants to States to conduct training pro-  
5   grams to improve the performance and competency of de-  
6   fense counsel representing defendants charged with capital  
7   offenses in State and local courts.

8           “(b) ELIGIBILITY.—The Institute is authorized to re-  
9   ceive such grants for the sole purpose of conducting train-  
10   ing programs as set forth in subsection (a). Grants au-  
11   thorized by this section may only be made for training of  
12   defense counsel in a State that has capital punishment.

13          “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
14   are authorized to be appropriated \$10,000,000 for fiscal  
15   years 2003 and 2007 to carry out this section.”.

16          (b) GRANTS TO TRAIN PROSECUTORS.—

17               (1) IN GENERAL.—The Director of the Office of  
18   Justice Programs shall make grants to State and  
19   local governments to train prosecutors in handling  
20   capital cases.

21               (2) ELIGIBILITY.—Grants authorized by this  
22   subsection may only be made to a State or local gov-  
23   ernment in a State that has capital punishment.

24               (3) AUTHORIZATION OF APPROPRIATIONS.—  
25   There are authorized to be appropriated



1       \$10,000,000 for fiscal years 2003 and 2007 to carry  
2       out this subsection.

3       (c) GRANTS TO TRAIN STATE AND LOCAL  
4 JUDGES.—

5           (1) IN GENERAL.—The Director of the Office of  
6       Justice Programs shall make grants to State and  
7       local courts for training of trial judges to effectively  
8       conduct capital trials.

9           (2) ELIGIBILITY.—Grants authorized by this  
10      subsection may only be made to a State or local  
11      court in a State that has capital punishment.

12          (3) AUTHORIZATION OF APPROPRIATIONS.—  
13      There are authorized to be appropriated  
14      \$10,000,000 for fiscal years 2003 and 2007 to carry  
15      out this subsection.

16 **SEC. 202. ENSURING COMPETENT COUNSEL IN FEDERAL**  
17 **CAPITAL CASES.**

18      (a) COUNSEL AND WITNESSES IN CAPITAL CASES.—  
19      Section 3005 of title 18, United States Code, is amended  
20      by inserting after “reasonable hours” the following: “but,  
21      no attorney shall be eligible to represent an accused where  
22      that attorney has been disciplined by a bar association or  
23      court relating to a criminal case, or where that attorney  
24      has been found to have rendered ineffective assistance of  
25      counsel in another Federal or State criminal case”.

1 (b) COUNSEL FOR INDIGENT DEFENDANTS.—Section  
 2 408(q)(4) of the Controlled Substances Act (21 U.S.C.  
 3 848(q)(4)) is amended—

4 (1) in subparagraph (A), by adding before the  
 5 period at the end the following: “but, no attorney  
 6 shall be eligible to represent an accused where that  
 7 attorney has been disciplined by a bar association or  
 8 court relating to a criminal case, or where that at-  
 9 torney has been found to have rendered ineffective  
 10 assistance of counsel in another Federal or State  
 11 criminal case”; and

12 (2) in subparagraph (B), by adding before the  
 13 period at the end the following: “but, no attorney  
 14 shall be eligible to represent an accused where that  
 15 attorney has been disciplined by a bar association or  
 16 court relating to a criminal case, or where that at-  
 17 torney has been found to have rendered ineffective  
 18 assistance of counsel in another Federal or State  
 19 criminal case”.

20 **SEC. 203. ENSURING COMPETENT COUNSEL IN NONCAP-**  
 21 **ITAL CASES.**

22 Section 3006A(b) of title 18, United States Code, is  
 23 amended in the third sentence, by adding after “shall ap-  
 24 point counsel to represent him” the following: “but, no  
 25 attorney shall be eligible to represent an accused where

1 that attorney has been disciplined by a bar association or  
2 court relating to a criminal case, or where that attorney  
3 has been found to have rendered ineffective assistance of  
4 counsel in another Federal or State criminal case”.

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